

§511.76

24 CFR Ch. V (4–1–10 Edition)

ups will remain suspended until a satisfactory Project Completion Report is received and entered into the C/MI System.

(Approved by the Office of Management and Budget under control number 2506–0080)

§511.76 Program income.

(a) *General.* Grantees and State recipients are neither encouraged to earn nor discouraged from earning program income in using rental rehabilitation grant amounts under this part.

(b) *Definition of program income.* *Program income* means gross income received by the grantee or State recipient (or by another party at the direction of the grantee or State recipient) which is directly generated from the use of rental rehabilitation grant amounts. Primarily, it includes but is not limited to, the following:

(1) Repayments of principal (whether in installments or a lump-sum) and any interest or penalty assessment, under the terms of the loan commitment or other project assistance agreement between the owner and the grantee or State recipient, including repayments, pursuant to §511.11(d)(3), of the rental rehabilitation grant assistance by the owner after completion of rehabilitation; and

(2) Interest earned on program income pending its disposition. Grantees or State recipients are not authorized to deduct costs incident to the generation or management of income from gross income for purposes of determining program income. Governmental fees and taxes, including income taxes, property taxes, special assessments, transfer taxes, recording fees and other normal governmental revenues, do not constitute program income if they are imposed by generally applicable law, regulation, or ordinance and are not imposed in consideration of the project's receipt of assistance under this part. Program income also does not include grant amounts required to be returned to HUD as a result of cancellation of a project before completion, or interest on those grant amounts, or any interest earned by the grantee or State recipient or grant funds after drawdown and before disbursement for eligible costs. (For dis-

position of such interest, see 24 CFR 85.21(i).)

(c) *Eligible uses.* Program income may be used only as prescribed in paragraphs (c)(1) and (c)(2) of this section.

(1) Program income may be used for any activity which is eligible under this part, except that program income may not be used to pay for administrative costs, as described at §511.71. In particular, the total of rental rehabilitation grant amounts and Rental Rehabilitation Program income used for any project (except under §511.76(c)(2)) may not exceed the amount per unit allowed under §511.11(e)(2) or 50 percent of the total eligible project costs (except as noted in §511.11(e)(1)).

(2) Program income may also be used to provide rental assistance to lower income tenants in properties rehabilitated through the RRP. This includes the use of program income to pay for administrative costs associated with the provision of rental assistance but not to exceed the amount allowed for administrative fees in the Housing Voucher Program authorized under section 8(o) of the United States Housing Act of 1937, 42 U.S.C. 1437f. In order to use program income for rental assistance, the grantee or State recipient must—

(i) Use the funds to assist low-income tenants who initially occupy properties rehabilitated with rental rehabilitation grant amounts or rental rehabilitation program income;

(ii) Have a written policy which is available to the public stating that program income will be so used and specifying who is eligible to receive such assistance; and

(iii) Have an agreement with the PHA stating that the PHA will utilize the program income to provide rental assistance in accordance with the written policy.

(d) *Timing the use of program income.* Grantees and State recipients shall not commit available rental rehabilitation grant amounts to specific local projects if sufficient program income is on hand and available to fund the project, or a substantial portion of the project. In order to avoid possible over commitment of funds, grantees and State recipients shall not anticipate the receipt of program income and

enter into binding commitments with owners cumulatively exceeding the total amount of program income on hand plus uncommitted rental rehabilitation grant amounts.

(e) *Accounting for and reporting program income.* Program income shall be accounted for and reported in the grantee's Annual Performance Report under § 511.81(b) and in the Cash and Management Information System under § 511.75, in the manner prescribed by HUD.

(f) *Authority of State grantees.* States administering rental rehabilitation grants have discretion to choose whether program income is to be earned at all or is to be paid to or retained by the State or paid to or retained by the State recipient. The State's determination should be contained in a written agreement between the State and its State recipients. However, once earned, program income must be used and accounted for in accordance with this section by the State or by the State recipient, as applicable.

(g) *Authority of urban counties.* Because the configuration of an urban county may change from time to time, particularly at the time of requalification of an urban county in the Community Development Block Grant program, special provisions must be made for urban county program income. The urban county may determine whether program income generated by a project located in a unit of general local government which, for whatever reason, no longer participates in the urban county shall be retained by the urban county for its RRP or by the unit of general local government. However, urban county program income must otherwise be used and accounted for by the urban county and the unit of general local government in accordance with this section.

(h) *Program closeout and disposition of program income.* Program income must be accounted for by the grantee when a Rental Rehabilitation Program is completely closed out for all years. Program "closeout" will occur when the following conditions have been met: All grant funds from all program years (excluding program income) have been expended; the grantee and, if applicable, its State recipients do not expect

(or have elected not) to receive any additional rental rehabilitation grant amounts, and the annual performance report covering the last program year has been submitted to HUD. Program income shall be treated in the following manner before and after program closeout:

(1) Before program closeout, program income shall be used for activities eligible under § 511.76(c); and

(2) Program income on hand at the time of program closeout or earned after program closeout may be contributed to HOME or HOPE program grantees as a cash matching contribution in accordance with applicable HOME or HOPE program rules, or may be used for activities that would be eligible under other affordable housing activities, as determined by the recipient.

[55 FR 20050, May 14, 1990, as amended at 58 FR 52567, Oct. 8, 1993; 61 FR 7062, Feb. 23, 1996]

§ 511.77 Grant closeout.

(a) Each individual fiscal year rental rehabilitation grant will be closed out when all grant amounts for the grant to be closed out have been drawn down and expended for completed projects and/or administrative costs, or grant amounts not drawn down and expended have been deobligated by HUD.

(b) Project Completion Reports for all projects utilizing grant amounts from the fiscal year grant(s) to be closed out have been submitted and entered into the C/MI System.

(c) The required reviews and audits to determine whether grantees have satisfied the terms of their grant agreement have been made. Closeout is contingent upon the receipt of the grantee's most recent audit report and audit reports of State recipients, where applicable. For closeout of the grant to proceed, the most recent audit report(s) must be free of any outstanding findings related to the RRP grant to be closed. The audit(s) of the grantee and State recipients, where applicable, should cover all grant amounts from all fiscal years which are to be closed out except as noted in paragraph (c)(2) of this section.

(1) The Single Audit Act prohibits requiring a grantee or State recipient to obtain an audit at its expense covering